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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/623,642 | 07/21/2003 | Jason Schultz | 10541-1814 | 5188 |

7590 06/30/2004

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EXAMINER

BENTON, JASON

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3747

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/623,642 | Applicant(s) SCHULTZ ET AL. | |
| | Examiner Jason Benton | Art Unit 3747 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-14, 17, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 5-8, 15, 16 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/21/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joos et al. in view of Jones et al.

The patent by Joos et al. (6,412,475) shows a fuel supply for a vehicle having an engine. A fuel tank (9) contains fuel. A fuel delivery module (3) has a reservoir and a fuel pump (4) pressurizing fuel from the reservoir. A fuel supply line (13.1) leads from the fuel tank to the engine. A jet pump (27) collects fuel from the bottom of the fuel tank and supplies the collected fuel to the reservoir. A filter (5) has a housing enclosing a filter media. The filter includes an inlet for receiving fuel from the fuel pump, a first outlet opening (13.1) supplying filtered fuel to the fuel supply line, and a second outlet (11) supplying filtered fuel to the jet pump.

The second outlet does not specifically show a standpipe, though it does show that the circuit's receiving end is positioned within the top half of the filter housing. It is the view of the examiner that it is an obvious choice of design to have the circuit line being a standpipe as opposed to a hose, as no new or unexpected results are achieved from having the circuit be more rigid.

The receiving end is positioned adjacent the top of the filter housing.

The filter housing includes an upper wall and a lower wall, the receiving end is positioned adjacent the upper wall.

The filter housing is ring-shaped and circumscribes a portion of the fuel delivery module.

The fuel delivery module and the fuel filter are located within the fuel tank.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joos et al. in view of Laue et al.

The patent by Joos et al. does not specify that the filter housing includes deflectable locking tabs for engaging the fuel delivery module. The patent by Laue et al. (5,392,750) shows a similar fuel filter arrangement. The filter housing especially is shown in closer detail. The patent by Laue et al. teaches that the filter housing includes deflectable locking tabs (248, Fig. 4) for engaging the fuel delivery module. In view of Laue et al, it would have been obvious to anyone skilled in the art who wanted to prevent the fuel filter body from moving during operation to lock the filter housing to the delivery module.

Claims 11, 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joos et al. in view of Jones et al.

The patent by Joos et al. does not specify the shape of the nozzle at the end of the jet pump (27). The patent by Jones et al. (6,619,272) shows jet pump arrangement in a similar fuel supply circuit with a nozzle attached at the end of the jet pump in order to direct the returned fuel back into the reservoir. In view of Jones et al., it would have

Art Unit: 3747

been obvious to anyone skilled in the art who wanted to ensure the returned fuel was fully returned to the reservoir to improve on Joos et al. by providing a nozzle at the end of the jet pump.

Allowable Subject Matter

Claims 5-8, 15, 16, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Benton whose telephone number is (703) 305-6800. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JB


Noah P. Kamen
Primary Examiner